

**MONTANA FOURTEENTH
JUDICIAL DISTRICT COURT**

**RULES OF COURT of the
FOURTEENTH JUDICIAL DISTRICT
of the
STATE OF MONTANA**
Effective: May 15, 2003
TABLE OF CONTENTS

1. Form of Papers Presented for Filing
2. Motions
3. Ex Parte Matters
4. Filing of Discovery
5. Pre-Trial Order and Pre-Trial Conference
6. Briefs
7. Jury Instructions and Verdict Forms
8. Findings and Conclusions
9. Juror Questionnaire
10. Death or Removal of Attorney
11. Judgments and Decrees
12. Exhibits
13. Regulation of Attorneys Not Admitted to Practice in Montana
14. Local Rules Allowed
15. Obtaining Court Order
16. Telefax Filing
17. Communications With the Court
18. Law and Motion
19. Scheduling and Pre-Trial
20. Security
21. Alternate Dispute Resolution
22. Trial
23. Decorum
24. Marital Dissolution Cases
25. Criminal Actions
26. Youth in Need of Care
27. Confidential Criminal Justice Information
28. Bankruptcy
29. Appeals From Justice or City Court
30. Removal to Small Claims Court
31. Closure of Estates
32. Conservatorships
33. Law Library
34. Signature Stamp
35. Amendment-Relief

36. Dismissal of Actions for Laches

PREFACE

The following are the Rules of Procedure of the District Court of the Fourteenth Judicial District. Where indicated, these Rules incorporate the Uniform District Court Rules as adopted by the Order of the Supreme Court.

These rules describe the usual manner in which the Court does business, including the processes which govern litigation. If counsel have an emergency which is not covered adequately by these rules, or need relief from the application of them, counsel may present such matters to the Court for its consideration.

MONTANA'S UNIFORM DISTRICT COURT RULES

RULE 1

FORM OF PAPERS PRESENTED FOR FILING

- (a) **Papers Defined.** The word "papers" as used in this Rule includes all documents and copies except exhibits and records on appeal from lower courts.
- (b) **Pagination, Printing, etc.** All papers shall be:
1. Typewritten, printed or equivalent;
 2. Clear and permanent;
 3. Equally legible to printing;
 4. Of type not smaller than pica;
 5. On standard quality opaque, unglazed white paper, 8 ½" x 11" in size;
 6. Printed one side only;
 7. Lines unnumbered or numbered from the top;
 8. Spaced one and one-half to double;
 9. Page numbered consecutively from the top;
 10. Bound firmly at the top.

Matters such as property descriptions or direct quotes may be single spaced.

Extraneous documents not in the above format and not readily conformable may be filed in their original form and length.

- (c) **Format.** The first page of all papers shall conform to the following:
1. Commencing at Line 1 at the left margin, single spaced, shall be the name of the attorney or party responsible for the pleadings, together with telephone number and the complete mailing address for service of papers;

2. Lines 1 through 7 of the right one-half of the page shall be left blank for the use of the Clerk;
 3. On or below Line 8, the title of the Court;
 4. Commencing at Line 9 or below on the left, the title of the case;
 5. On the right and opposite the title of the case, the case number and identification of the document being filed;
 6. Nonconforming papers may not be filed without leave of the Court.
- (d) **Changes, Conformance of Copies.** Additions, deletions or interlineation shall be initialed by the Clerk or Judge at the time of filing. All copies served shall conform to the original as filed.

RULE 2 MOTIONS

- (a) **Briefs.** Upon filing a motion or within five (5) days thereafter, the moving party shall file a Brief. The Brief may be accompanied by appropriate supporting documents. Within ten (10) days thereafter the adverse party shall file an Answer Brief which also may be accompanied by appropriate supporting documents. Within ten (10) days thereafter movant may file a Reply Brief or other appropriate responsive documents.
- (b) **Failure to File Briefs.** Failure to file Briefs may subject the motion to summary ruling. Failure to file a Brief within five (5) days by the moving party shall be deemed an admission that the motion is without merit. Failure to file an Answer Brief by the adverse party within ten (10) days shall be deemed an admission that the motion is well taken. Reply Briefs by movant are optional and failure to file will not subject a motion to summary ruling.
- (c) **Oral Argument.** The Court may order oral argument sua sponte or upon application of a party.
- (d) **When Motion Deemed Submitted.** Unless oral argument is ordered, or unless the time is enlarged by the Court, the motion is deemed submitted at the expiration of any of the applicable time limits set forth above without supporting Briefs having been filed.

If oral argument is ordered, the motion will be deemed submitted at the close of argument unless the Court orders additional Briefs in which case the motion will be deemed submitted as of the date designated as the time for filing the final Brief.

- (e) **Conflict; Time Computation.** In the event of conflict, the Montana Rules of Civil Procedure shall control. Time computation shall be governed by Rule 6(a), M.R.Civ.P.
- (f) **Motions in Limine.** Motions in Limine must be accompanied by citations of the authorities relied upon.

RULE 3 EX PARTE MATTERS

- (a) **Contacts with the Court.** Rule 3.5 of the Rules of Professional Conduct prohibits an attorney from communicating with a judge “except as permitted by law.” Rule 3, Uniform District Court Rules,

permits written ex parte contact to obtain:

- (1) extensions of time to further plead,
- (2) time to file briefs,
- (3) continuances of a hearing on a motion
- (4) and other permissible matters.

The attorney seeking the ex parte order must file a written certification that opposing counsel has been contacted and reasonable notice of the meeting, the substances of the request, and whether counsel opposed the motion. If the Court has any concerns about the matter, opposing counsel may be contacted by phone.

- (b) **Contacts with the Judge's Staff.** The same prohibitions against ex parte contact with the judge, applies to the judge's staff. Staff members are cautioned against discussion about procedural matters especially as it relates to an actual case because the inquirer may gain an advantage over opposing counsel.
- (c) **Appearance of Impropriety.** Counsel should avoid any contact which gives the appearance of impropriety. During a trial, counsel should not enter the judge's offices without opposing counsel present. Phones and other services are provided by the Clerk. If counsel needs to talk with the judge, opposing counsel must be present. Similarly, no telephone calls should be placed to the judge without opposing counsel on the line. While it may be common practice for counsel to agree that one may communicate with the court, the court prefers to have both counsel present or on the phone.
- (d) **Correspondence.** Copies of correspondence to the court concerning disputes between counsel are a form of ex parte contact and are not permitted. The Court will not receive letters or other communications from parties or counsel which do not indicate on their face that copies have been sent to all opposing parties or counsel. Motions, not correspondence, are required under Rule 15, Local District Court Rules should parties seek court action.
- (e) **Sanctions.** A violation of this rule may result in imposition of sanctions against the offending party or attorney.

RULE 4 FILING OF DISCOVERY

- (a) Depositions upon oral or written examination, interrogatories and answers thereto, requests for production of documents and responses thereto, requests for admissions and responses thereto, shall not be routinely filed. When any motion is filed making reference to discovery, the party filing the motion shall submit with the motion relevant unfiled documents.
- (b) The pretrial order shall identify all those portions of depositions, interrogatories, requests for admissions and answers and responses thereto that the parties intend to introduce into evidence.

RULE 5
PRE-TRIAL ORDER AND PRE-TRIAL CONFERENCE

- (a) **Pre-Trial.** Unless otherwise ordered by the Court, a pre-trial conference shall be held in all contested civil cases.
- (b) **Conference Convened by Plaintiff's Counsel.** Not later than five (5) days prior to the pre-trial conference, Plaintiff's counsel shall convene a conference of all counsel for the purpose of preparing a pre-trial order. The proposed pre-trial order shall be presented for signature at the pre-trial conference. In the event of a dispute as to the contents of the order, such dispute shall be presented to the Judge for resolution at the pre-trial conference.
- (c) **Pre-Trial Order.** The pre-trial order shall be substantially in the form as set out in Rule 5 Uniform District Court Rules.

RULE 6
BRIEFS

- (a) All briefs presented to the court at any time will be filed with the court and must forthwith be served on all opposing counsel.
- (b) All briefs required by rule, regulation, or by Court order to be filed by a date certain shall be filed by 5:00 o'clock P.M. by the date certain.
- (c) No individual brief shall exceed 25 pages in length, exclusive of indexes and appendixes, without prior leave of the Court.
- (d) Rambling, verbose, inflammatory, or unintelligible briefs or pleadings may be ordered stricken by the Court to be returned by the Clerk.

RULE 7
JURY INSTRUCTIONS AND VERDICT FORMS

- (a) **Submission.** All proposed jury instructions and verdict forms must be delivered to the court in duplicate and a copy served upon all opposing parties at the time fixed in the pre-trial order. Thereafter, additional instructions may be allowed to prevent manifest injustice.
- (b) **Citation of Authority.** Each proposed instruction shall contain at the bottom the source thereof and a citation of authorities, if any, supporting the statement of law therein.
- (c) **Form.** Each instruction shall be on 8 ½" paper and shall, after the citation of authorities, indicate the party on whose behalf it is requested and be numbered consecutively. One copy of the instructions filed with the court shall not be firmly bound together.
- (d) **Request for Special Findings by Jury.** Whenever a party desires special findings by a jury he shall file with the court and serve a copy upon all opposing parties, in writing, the issues or questions of fact

upon which such findings are requested, in proper form for submission to the jury.

RULE 8 FINDINGS AND CONCLUSIONS

In the matters where the court must enter findings of fact and conclusions or law pursuant to Rule 52, M.R.Civ.P., all parties shall file with the court, and serve upon opposing counsel, at least five (5) days prior to the scheduled trial or hearing, proposed findings of fact and conclusions of law. Failure to file proposed findings of fact and conclusions of law in a timely manner shall be cause for appropriate sanction including removal of the case from the trial calendar, dismissal or granting of a judgment, precluding the offending party from presentation of evidence submitted by the other party, or such other action as the court deems appropriate. Post-trial amended and supplemental findings of fact and conclusions of law may be submitted in appropriate circumstances and only upon order of the court.

Proposed Findings of Fact and Conclusions of Law shall be submitted in a format suitable for signature by the Court, together with a working copy for the Court. A transmittal sheet shall accompany the findings indicating the party submitting the findings and containing a certificate of service. The Court requests that, where possible, a 3 ½ inch computer disk compatible with IBM PC Word Perfect 6.0 or higher (formatted) and labeled accordingly accompany the findings. The disk will be returned to counsel when it is no longer required by the Court.

RULE 9 JUROR QUESTIONNAIRE

All jurors are requested to complete a questionnaire, the form of which is on file with the Clerk in his/her General Order File and which contains basic vital statistics and other pertinent information. The completed questionnaires will be available for examination or copying by counsel in the Clerk's office in advance of trial and should be used so as to expedite the examination of jurors. The attorneys shall not unduly reiterate the information contained in the questionnaires during their voir dire examination.

RULE 10 DEATH OR REMOVAL OF ATTORNEY

- (a) Whenever an attorney representing a party to an action, or in other civil proceedings of any kind, is removed, withdraws or ceases to act as such, said attorney must inform the court and all other parties of the full name and address of his client and any other information which the court may find appropriate to assist in contacting said party.
- (b) When the attorney representing a party to an action or proceeding dies, is removed, withdraws, or ceases to act as such, that party, before any further proceedings are had against him must be given notice by any adverse party:
 - (1) That such party must appoint another attorney or appear in person, and
 - (2) The date of the trial or of the next hearing or action required in the case, and

(3) That if he fails to appoint an attorney or appear in person by a date certain, which may not be less than twenty (20) days from the date of the notice, the action or other proceeding will proceed and may result in a judgment or other order being entered against him, by default or otherwise.

- (c) Such notice may be by personal service or by certified mail to said party's last known address.
- (d) If said party does not appoint another attorney or appear in person within twenty (20) days of the service or mailing of said notice, the action may proceed to judgment. However, copies of all papers and documents required to be served by these rules and the Rules of Civil Procedure shall be mailed to said party at his last known address.
- (e) In addition to the foregoing requirements of Rule 10 and before any changes or substitution of attorney is effective, whether such change or substitution is occasioned by the death of the attorney or by his removal, withdrawal, ceasing to act, suspension or disbarment, the requirements of §§ 37-61-403, 37-61-404 and 37-61-405, MCA, shall have been fully satisfied.

RULE 11 JUDGMENTS AND DECREES

Whenever a judgment or decree is signed by the presiding judge it shall be delivered to the Clerk and immediately filed in the records of the court and the fee required by law be forthwith paid to the Clerk. Failure of counsel to observe this Rule shall be deemed a contempt of court.

RULE 12 EXHIBITS

- (a) Every exhibit placed on file or offered in evidence shall be held in the custody of the Clerk. Unless there be good reason why the original of an exhibit should be retained, upon application, the Court may order a copy filed in its place. Public records offered in evidence may be withdrawn at the conclusion of the hearing on order of the Court.
- (b) Exhibits may be withdrawn by the party offering them forty-five (45) days after a judgment has become final. The Clerk may apply to the Court for an order to dispose of exhibits, and shall notify counsel of record of said application. Twenty (20) days after mailing of said notice the Court may enter its order authorizing the Clerk to dispose of exhibits.

RULE 13 REGULATION OF ATTORNEYS NOT ADMITTED TO PRACTICE IN MONTANA

An attorney seeking to be admitted to practice before this Court on a particular case, who is not admitted to the Bar of Montana, and who is authorized to practice law in the highest Courts of another State, must at the time of his/her first appearance in a District Court in Montana, or within ten (10) days thereafter, and before any further proceedings are had in the matter, join with, of record, an attorney who is admitted to practice in Montana and who is a resident of Montana.

In order to help secure the just, speedy and inexpensive determination of every action, such local counsel must be furnished with all factual, evidentiary and legal information necessary to act on behalf of the party and must also be vested with full and complete authority to act on behalf of and bind the party in all matters connected with the litigation.

A failure of local counsel to take any action required by the Rules of Civil Procedure or these Rules by lack of authority shall, for the purpose of imposing sanctions, be treated as a refusal to act.

RULE 14 LOCAL RULES ALLOWED

Nothing in the Rules shall be constructed as limiting the power of District Courts from promulgating rules that do not conflict with these Rules.

LOCAL RULES OF 14TH JUDICIAL DISTRICT COURT

RULE 15 OBTAINING COURT ORDER

- (a) **Motion and Briefing Requirement.** Under Rule 7, M.R.Civ.P., any request for court order shall be by motion stating with particularity the grounds therefor and the relief or order sought. All motions filed shall be briefed and deemed submitted pursuant to Rule 2, Uniform District Court Rules.
- (b) **Document Title.** For meaningful information in Court indexing, motions and Briefs shall include in the document title identity of submitting party and a brief description of subject. (**Eg., Defendant's Motion for Change of Venue**)
- (c) **Proposed Order.** Parties applying for an order shall present prior to hearing or action upon the same a separate proposed order for signature of the Court. Where applicable, the title of the proposed order shall make reference to the underlying motion. Two copies of any order to show cause, temporary restraining order or like order shall be presented and, if found acceptable, signed with one retained for the court files and the duplicate original returned for purpose of making service.
- (d) **Oral Arguments.** Oral argument will be set on summary judgment motions unless waived by all parties. In civil cases, parties desiring oral argument on other motions must support the request with specific reasons. Oral argument is scheduled exclusively by the Judge or through the Court's Administrative Assistant.

RULE 16 TELEFAX FILING

- (a) **Authorization.** Any document which may be filed by mail may be submitted by telefax transmission using the following procedure.
- (b) **Filing Procedure.**

- (a) The telefaxed document will not be accepted unless it is completely legible, shows all necessary signatures and does not result in reversal of telephone or telefax charges to be incurred by the Court.
- (b) The date and time of the Clerk of Court's receipt of the telefax transmitted document shall be the date and time of filing.
- (c) Should the original of the telefaxed document not be served on the same day as transmittal, service of the telefax document must be made as provided in Rule 5, M.R.Civ.P.
- (d) The party telefaxing the document shall, on the date of the telefax transmission, mail the original of the document to the Clerk of Court by first class mail. Upon receipt and confirmation that the original is exactly the same as the telefax transmission, the Clerk shall file and attach the original to the telefax transmitted document.
- (e) The Certificate of Service must show that a telefax transmission was sent to the Clerk of Court and the date of such transmission.
- (f) Failure of the clerk to receive the signed original document in a timely fashion will be cause for an order to strike the telefaxed document and thereupon, it shall have no force or effect whatsoever. The party filing the telefaxed document shall be responsible to assure the original is timely received and filed by the Clerk.
- (g) Filing documents by telefax shall not change or delay payment of fees in the manner and within the time required by the Clerk of Court.

RULE 17 COMMUNICATIONS WITH THE COURT

- (a) **Reception, Scheduling, Transcripts and General Inquiries.** All persons seeking a conference with the judge **MUST**, in order to avoid conflict, first check in with the Court Administrator Derinda Hazelton. All inquiries concerning the scheduling of matters, court appointed counsel assignments, and requests for transcripts **MUST**, in order to avoid conflicts, be referred to Derinda Hazelton, P.O. Box 357, Roundup, Montana 59072; Telephone: 406-323-1701, Fax: 406-323-1710.
- (b) **Reminders to the Court.** In matters pending or taken under advisement including, but not limited to, a motion or decision in a bench trial, parties may, and are encouraged, following any period as allowed for briefing or additional filing, to send the Court a reminder letter containing only a brief description of the matter needing attention and the date it was made or taken under advisement.

RULE 18 LAW AND MOTION

- (a) **Day and Time.** To conduct routine matters, reasonable effort will be made to schedule two (2) law and motion dates monthly in each county.

- (1) At White Sulphur Springs, Meagher County: on the 1st and 3rd Tuesday of each month.
 - (2) At Harlowton, Wheatland County: on the 1st and 3rd Tuesday of each month.
 - (3) At Ryegate, Golden Valley County: on the 1st and 3rd Tuesday of each month.
 - (4) At Roundup, Musselshell County: on the 2nd and 4th Thursday of each month.
 - (5) Scheduled law and motion may continue on any designated date at the discretion of the Court. Additional law and motion dates may be held in any county when, in the discretion of the Court, the business of the district so requires.
- (b) **Routine Matters.** “Routine matters” for the purpose of law and motion shall include initial appearance, arraignment, judgment by consent or default, probate proceedings, uncontested ex parte matters, matters pertaining to questions of law only and any other matters reasonably anticipated to take less than 30 minutes to complete. Matters set for law and motion date which become contested are subject to postponement and rescheduling.
- (c) **Calendar.** Counsel or parties shall notify the Court Administrator by noon on the preceding business day of matters to be placed on the law and motion calendar. Emergency matters may be presented to the court at any time upon adequate showing by moving party. Parties or counsel not prepared when their matter is called from the calendar will be moved to the end of the calendar and be heard subject to available time.
- (d) **Continuances.** Matters scheduled for law and motion may be continued by the Court on its own initiative. Ex Parte requests to continue any matter set by Court order for law and motion must comply with Rule 3, Uniform District Court Rules. Counsel may withdraw from the law and motion calendar any matter placed thereon solely by reason of their prior notification to the Court Administrator.
- (e) **Contested Matters.** Unless scheduled by the Judge, contested matters involving questions of fact, or matters requiring more than 30 minutes for presentation shall be scheduled through the Court Administrator at (406) 323-1701.
- (f) **Document Presentation.** No matter may be placed on the law and motion calendar until the motion or other documentation and all relevant supporting documents have been filed with the Clerk of Court.

RULE 19 SCHEDULING AND PRE-TRIAL

- (a) **Scheduling Procedure.** Rule 16(b), M.R.Civ.P. requires a scheduling order to be issued no more than 120 days after filing of complaint. Within twenty (20) days of filing of all responsive pleadings or ninety (90) days after the filing of a complaint, *whichever comes first*, Plaintiff(s) will present to the Court a proposed Order setting scheduling conference.

At least ten (10) days prior to the scheduling conference, attorneys for the parties and any

unrepresented parties shall have a phone conference with the Court's Administrator at (406) 323-1701 to discuss a proposed scheduling order. Should this phone conference result in an agreed scheduling order, the parties shall complete and present a written scheduling order in approved format for Court approval. Court approval of the submitted scheduling order shall vacate the scheduling conference.

Should attorneys for the parties and all unrepresented parties stipulate to a waiver of discovery, an immediate trial scheduling conference may be held with the Court's Administrator. Parties should be prepared at the scheduling conference with their calendars so a firm trial date can be set.

Following the scheduling conference, a scheduling order with discovery deadlines and trial dates will be issued by the Court.

Under Rule 16(b), M.R.Civ.P., the following matters are exempt from the scheduling procedure:

- (1) Youth Court cases
- (2) Criminal actions
- (3) Probates
- (4) Adoptions
- (5) Mental Commitment
- (6) Small Claims Appeals
- (7) Abstract or Transcript of Judgment
- (8) Administrative appeals
- (9) Seizures and Forfeitures
- (10) Habeas Corpus and Post Conviction Relief
- (11) Name Changes
- (12) Abuse or Neglect proceedings
- (13) Emancipation

- (b) **Trial Settings.** Trials shall be held throughout the year as scheduled. Trials may be stacked, i.e., more than one (1) trial may be set for the same time, and if so, the Court shall determine the order of priority. Regardless of order, counsel and parties should be prepared to commence trial at the time scheduled. If preempted by another trial, the Court will reset trial and, whenever possible, to commence within the next thirty (30) days.

- (c) **Six Person Juries.** Pursuant to § 3-15-106, MCA, in all civil actions where the relief sought in the complaint is under the sum of Ten Thousand Dollars (\$10,000.00), the trial jury shall consist of six (6) persons. The Court encourages parties to stipulate to six-person juries in other civil cases where appropriate.
- (d) **Extension of Discovery Deadlines.** Discovery deadlines are to be followed. Extension of deadline to complete discovery must be by Court order upon written request setting forth the discovery accomplished to date, the reasons for missed discovery deadlines, and a statement regarding opposing counsel's position on the request. The request must be accompanied by a proposed order identified as "Amended Discovery Order" containing proposed new deadlines.
- (e) **Monitoring.** The Court's Administrator will monitor deadlines established by scheduling order(s). Failure to diligently respond to monitoring inquiries may result in sanctions, including removal from the trial calendar or loss of trial priority status.
- (f) **Final Pre-Trial Conference.** A date and time for the Final Pre-Trial Conference under Rule 5, Uniform District Court Rules will be set at the scheduling conference. Each party represented by counsel will have an attorney present at the Final Pre-Trial Conference with authority to make stipulations and admissions. Counsel should inform the Court at the Final Pre-Trial Conference of health conditions or other special needs of counsel, a party or witness that will likely need attention during trial.
- (g) **Telephonic Testimony.** Telephonic testimony by witnesses should be the exception and not the rule. No telephonic testimony will be permitted absent leave of the Court **and** stipulation of the parties. Should leave of the Court be granted allowing telephonic testimony, the party seeking leave shall be responsible for all costs associated with procuring such testimony including, but not limited to, telephone toll charges.
- (h) **Sanctions.** Sanctions for violating the Court's scheduling order or pretrial conference agenda may be imposed under Rule 16(f), M.R.Civ.P.
- (i) **Postponement of Trials.** Requests to continue trial must be by written motion setting forth specific reasons and a statement whether other parties oppose continuance. Continuances are addressed to the discretion of the judge. Any motion to postpone trial on grounds of absence of witness or evidence shall be supported by affidavit under § 25-4-501, MCA showing that reasonable grounds exist to believe the absent witness or evidence cannot otherwise be obtained and that the same will be available should postponement be granted. If any action set for a jury trial is continued within 96 hours of the trial date, the Court may require the moving party to reimburse the Clerk of Court for any expenditures incurred by the Clerk of Court.

RULE 20 SECURITY

- (a) **Potentially violent situations; duty of party/counsel.** In any type of case where a party believes that a potentially violent situation might arise, that party, through counsel or pro se, should notify the assigned judge and court administrator sufficiently in advance so that appropriate security measures can be taken.

- (b) **Weapons.** Only on-duty law enforcement officers or court security personnel shall be entitled to bring or carry firearms or other weapons in the courtroom, chambers or offices of other court personnel.
- (c) **Search.** Anyone wishing to enter the courtroom may be subject to metal detector security check or required to submit to a search of his or her person or belongings by law enforcement or other court security personnel.
- (d) **Prisoners.** Prisoners may appear in court in jail clothing when a jury or jury panel is not present. While in the courtroom prisoners will have handcuffs, manacles, and/or other restraining devices unless the defendant's attorney requests otherwise and sheriff's deputies or jail/detention center officer(s) in their discretion believe it is appropriate to remove some or all of such devices. Prisoners shall not appear in court or in any places where they may be observed by a jury or jury panel in prison/jail clothing or in restraints without permission of the Court being first obtained. Prisoner movement within the Courthouse shall be accomplished by detention center or jail staff or court security personnel.
- (e) **Contact by or with Prisoners or Detainees.** Except as otherwise provided for in paragraph (d) above, no person other than detention center or jail staff, court security or counsel of record may have physical contact with or communicate with in-custody prisoners or pre-trial detainees at any time said persons are in the Courtroom or being transported to or from the Courthouse. Attorney/prisoner visits or meetings should be conducted in a secure location, preferably the Musselshell County Sheriff's Department. When possible, said visits or meetings should be scheduled in advance with the Sheriff's Department. However, if, during court proceedings, it becomes necessary for an attorney to consult with a prisoner, pursuant to §37-61-418, Montana Code annotated, such communication shall take place between attorney and prisoner alone and in private with due regard for security considerations.

RULE 21

ALTERNATE DISPUTE RESOLUTION

- (a) **Mediation.** Parties, at their cost, may voluntarily retain a private individual for mediation of their case. In such case, mediation shall be a confidential meeting between the parties and the mediator to seek and promote communication between the parties with a view toward reaching a settlement agreement. Parties may agree to attend mediation without counsel. Any agreement reached in mediation shall be promptly reduced to writing and upon execution by parties, a written status report shall be filed with the Court.
- (b) **Settlement Conference.** In all civil cases, the court may require at any time a settlement conference before an appointed settlement judge or master. Any party may move the Court to order a settlement conference with an appointed settlement judge or master. At the discretion of the Court, trial may be postponed or not set until after a settlement conference.
 - (1) **Settlement Judge or Master.** The settlement judge may be either a current or retired state District Court Judge. The settlement master may be any person qualified under Rule 58, M.R.Civ.P.
 - (2) **Settlement Conference Defined.** A settlement conference is a confidential meeting between

the parties, attorneys and the settlement judge/master with a view toward negotiating a settlement. Each party will submit to the settlement judge/master a confidential settlement statement containing a summary of their case and description of strengths and weaknesses on each side. The parties and their attorneys must be present unless excused by the settlement judge/master.

- (3) **Sanctions.** Failure of a party or counsel to participate in a Court-ordered settlement conference may result in sanctions such as imposition of costs and attorney's fees incurred by opposing party in preparation for settlement conference.
- (4) **Confidential.** No person present at a settlement conference shall be subject to examination concerning statements made by any other person at the settlement conference. Parties cannot subpoena or otherwise require the appointed settlement judge/master to testify regarding his opinions or other matters expressed at the settlement conference.
- (5) **Attendance of Insurance Claims Person.** In all cases where pertinent, claims representative(s) from insurance companies, with requisite settlement authority, shall be required to attend the settlement conference in person or by speaker phone. Upon good cause shown, the Court may require personal appearance.
- (6) **Fees.** Fees charged by a settlement judge/master may be imposed upon parties in discretion of the Court.
- (c) **Settlement Documents.** If a case is settled by settlement conference or other method before the trial date without documentation, parties shall forthwith inform the Court in person or by conference call and a minute entry will be made vacating trial as the case has been settled. Once of record, the agreement is binding and enforceable. Within thirty (30) days, settlement documents must be prepared and filed.
- (d) **Sealing Confidential Information.** The court reserves the right to deny a request to seal sensitive information as part of a settlement, if disclosure of the information is in the public interest.

RULE 22 TRIAL PRACTICE

- (a) **Exhibits.** Counsel shall make reasonable effort to pre-label all exhibits to be used at a trial. In marking trial exhibits, plaintiff **shall** use letters, and defendants **shall** use numbers. Multiple defendants should use a different initial before numbering of each exhibit. (Eg., Defendant Robin would use R-1, R-2, etc.) Copies of all standard-size exhibits shall be made in advance for the judge and opposing counsel. No exhibits shall be used in opening statement without prior Court approval. Exhibits will be disposed under Rule 12 Uniform District Court Rules upon final disposition of the case.
- (b) **Timing of Objections.** Objections must be made after the question has been asked and before the witness has answered. It is objecting counsel's responsibility to stop the witness so the objection can be made. All counsel shall prepare their witnesses to refrain from answering when an objection is

made.

- (c) **Manner of Objections.** Unless apparent, counsel must state succinctly the specific grounds for objection. All objections will be addressed to the Court. Argument may be made only upon request or approval of the Court.
- (d) **Voir Dire.** Voir dire examination shall not exceed one (1) hour per side without prior leave of Court. Only one (1) attorney for each party may conduct voir dire. In the exercise of discretion, the Court may preclude counsel on voir dire from:
 - 1. Asking questions of an individual juror that can be asked collectively;
 - 2. Asking questions covered by and answered in the juror questionnaire;
 - 3. Repeating questions asked and answered;
 - 4. Using voir dire to instruct the jury on the law;
 - 5. Using voir dire to argue the case; or
 - 6. Asking a juror what his or her verdict might be under hypothetical situation based upon expected evidence or otherwise.
- (e) **Examination.** Only one (1) attorney for each party shall examine or cross-examine the same witness. On cross-examination of any witness or direct examination of a hostile witness, counsel shall not approach the witness without first obtaining permission of the court. Counsel shall not obstruct jury view of the witness.
- (f) **Discharge of Witness.** A party having a witness subpoenaed in a civil case may discharge the witness by motion made in open court. If an opposing party desires the witness to remain, such party must procure the witness's further attendance by subpoena or order of the Court and shall thereafter be responsible to the witness for fees
- (g) **Character or Parenting Witnesses.** No more than three (3) witnesses for each party will be permitted to testify as to the character of a person or parenting practices and abilities without an order of Court authorizing additional witnesses.
- (h) **Final Argument.** Each party is limited to one (1) hour for final argument, without prior leave of the Court. Plaintiff must allocate more time to the opening portion of Plaintiff's final argument.
- (i) **Jury Instructions.** To provide impartial copies for submission to the jury, parties must be prepared to offer an unbound copy of approved jury instructions absent of citation of authority, offered party and consecutive numbering required under Rules 7(b)&(c), Uniform District Court Rules. Parties should inquire of the Court at the final pre-trial conference of any stock instructions which need to be duplicated.

- (j) **Invoking 5th Amendment Privilege.** Any attorney, party, or witness, who anticipates that any witness to be called in a trial by jury might refuse to answer a question on the grounds that the answer may tend to incriminate him or her, shall so advise the court in advance of such witness testifying. The court shall thereupon hold a hearing outside of the presence of the jury to determine if, in fact, such will be the case. An appropriate order will then be entered for the purpose of avoiding, if possible, “taking the 5th” in the presence of a jury.

RULE 23 RULES OF DECORUM

- (a) The District Court adopts the Fourteenth Judicial District Courtroom Decorum and Practice Guidelines attached hereto as Exhibit “A.”
- (b) **Photography and Media.** Broadcasting, television, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court, or recesses between sessions, shall be allowed only with prior notice to, and specific permission of, the presiding judge. All equipment used and persons using it shall remain behind the bar. No flash lights, or other lighting equipment, or large microphones shall be used. Photographers, television cameras, and other recording devices, when allowed, shall remain stationary, and shall be used so as to not disrupt the proceedings. No photographs of or televising of the members of a jury shall be permitted.
- (c) **Removal.** Parties or other persons in the courtroom while the Court is in session shall be subject to removal for behavior or actions considered disruptive or threatening.

RULE 24 MARITAL DISSOLUTION CASES

- (a) **Child Support Guidelines.** As long as application of uniform child support guidelines is required under § 40-4-204, Montana Code Annotated, a guidelines worksheet and financial affidavit(s), in accepted form, must be completed. In non-contested cases, these documents must be filed as required by § 46.30.1515 Administrative Rules of Montana. In contested cases, these documents must be offered into evidence as exhibits.
- (b) **Support Variance.** A party seeking variance from the support guidelines or withholding requirements must furnish written proposed findings addressing their contention the variance is supported by clear and convincing evidence.
- (c) **Notice to Child Support Enforcement Division.** Any petition filed to commence proceedings involving modification of child support shall include a statement whether the requesting party has knowledge of the child(ren) receiving or applying for public assistance and if so, petitioner shall immediately notify Montana’s Child Support Enforcement Division in writing of the pending action and file proof of such notice with the Clerk of Court.

RULE 25 CRIMINAL ACTIONS

- (a) **Financial Disclosure by Indigent.** Defendants desiring court-appointed counsel due to indigency shall file a sworn Financial Disclosure Application substantially in the form available through the Court Administrator, Sheriff's Department or Clerk of Court. Whenever possible, copies of this application shall be made available to defendants prior to initial appearance. Under § 46-8-111, MCA, the applicant shall ratify the application, under oath, at the initial appearance or any other appearance when required by the Court. This application shall inform those claiming indigency that reimbursement for all or portions of costs incurred by the County in providing appointed counsel may be required and shall contain the applicant's agreement to diligently inform the Court of any substantial change in the reported financial conditions.
- (b) **Court Appointed Counsel.**
- (1) **Appointment.** Upon determination of entitlement under § 46-8-101, MCA, counsel will be appointed to represent a defendant.
 - (2) **Compensation.** Court-appointed attorneys in criminal actions shall be compensated at a rate not to exceed Sixty Dollars (\$60.00) per hour. Expenses reasonably incurred in representation shall also be reimbursed; provided expenses shall not exceed state accepted rates and expenses shall not exceed Three Hundred Dollars (\$300.00) in aggregate without Court approval.
 - (3) **Pre-Sentence Report (PSI).** In order to determine a defendant's ability to reimburse costs of his or her defense counsel, court appointed counsel shall upon request of the probation officer provide an estimate of time incurred in providing legal services to be included in a defendant's pre-sentence report.
- (c) **Bail.**
- (1) **Initial Bail Request.** At the time of seeking leave to file an Information, the County Attorney shall submit a proposed order together with written recommendations for bail pending initial appearance.
 - (2) **Bail From Lower Courts.** Whenever bail has been furnished to a Justice or City Court and the cause is transferred to District Court, the County Attorney shall assure bail is delivered by the Justice or City Court to the Clerk of Court by the initial appearance. If cash bail is furnished, the transfer to District Court shall identify the person or party who actually posted the cash bail.
- (d) **Arraignment.**
- (1) **Delivery of Charging Documents.** In the absence of an emergency, and to assist in the speedy administration of justice in the District Courts, prosecutors shall deliver a copy of any charging documents to the accused and/or his counsel at least 24 hours prior to the time set for arraignment in order that the accused may review them and make an informed plea at arraignment.
 - (2) **Acknowledgment of Rights.** Prior to arraignment, defense counsel shall have

reviewed and sought signature of defendant upon an Acknowledgment of Rights form to be presented to the Court at time of arraignment. This form is available from the Clerk of Court.

- (3) **Court entered “Not Guilty” Plea.** A defendant unwilling to enter a plea at the time of arraignment is subject to the Court entering a “not guilty” plea. In such event, the defendant, on request, will be allowed to reserve for a reasonable time the right to move against the charging document(s) and to file motions and assert all defenses to which he/she may be entitled.

(e) **Omnibus Hearing.**

- (1) **Setting.** Following plea of “not guilty,” the court will set the Omnibus Hearing described in § 46-13-110, Montana Code Annotated usually within 30 to 45 days. Omnibus Hearing will be conducted between the prosecution and defense counsel, and upon completion submitted to the Court for approval.
- (2) **Discovery.** Unless motion is filed seeking protection, the prosecution shall make disclosure under § 46-15-322(1)-(4), Montana Code Annotated. Defendant shall comply with disclosure deadlines under § 46-15-323, Montana Code Annotated or seek extension as allowed thereunder.
- (3) **Waiver.** Upon submission of a completed and signed Omnibus Hearing Memorandum form, counsel will be deemed to have waived an Omnibus Hearing before the Court, absent a request to the contrary.
- (4) **Mental Competency Issues.** Upon motions under § 46-14-202, MCA requesting examination, defendant’s counsel shall be prepared to identify the name and business address of a qualified professional sought to conduct the examination and to discuss the availability of this professional to do the examination. Should examination be ordered upon defendant’s motion, defense counsel shall be responsible to assure a report of examination under § 46-14-206, MCA is timely filed.

(f) **Plea Agreement.**

- (1) **Plea Discussions.** No defendant is required to discuss a plea agreement. The Court may summarily reject all plea agreements not presented at least two (2) weeks prior to scheduled trial.
- (2) **Written Plea Agreements.** Plea agreements under § 46-12-211, MCA must be reduced to writing, signed by counsel and the defendant, and entered into evidence.
- (3) **Alford Pleas.** Counsel who intend to proffer an Alford Plea under § 46-12-212(2), MCA, must present a factual basis showing good reason for the Court to accept the plea.

- (4) **Effect on Trial Setting.** At its discretion, the Court may refuse to vacate a trial setting by reason of a plea agreement until after defendant has appeared and entered a plea found acceptable to the Court.
- (g) **Pre-Sentence Investigation.** In preparing a Pre-Sentence Investigation Report (PSI), the probation officer shall make reasonable effort to contact any victim(s) and inform them of a right to be present and give testimony at the sentencing hearing and seek a written statement to be attached to the PSI. Unless effectively waived by a defendant, a PSI shall be completed and filed with the Court no later than ten (10) days prior to sentencing. Prior to sentencing, defense counsel shall review the filed PSI with defendant.
- (h) **Presence of Sheriff's Department.** Unless excused by the Court, an officer of the Sheriff's Department shall be present during sentencing. The prosecution shall inform the Sheriff's Department of the dates and times of all sentence hearings.

RULE 26

YOUTH IN NEED OF CARE

- (a) **Temporary Investigative Authority (TIA).** An order of temporary investigative authority and protective services issued under § 41-3-433, Montana Code Annotated shall not extend beyond 90 days. The action is subject to dismissal unless the person or party filing the petition brings the matter for adjudicatory hearing under § 41-3-437, MCA within the time period provided.

RULE 27

CONFIDENTIAL CRIMINAL JUSTICE INFORMATION

A copy of any petition for the release of confidential criminal justice information under §§ 44-5-111 and 44-5-303, MCA, shall be served by petitioning party upon each agency maintaining such information. The petition shall inform the requesting agency that within twenty (20) days of service, they shall deliver to the Court for in camera inspection true and correct copies of the requested information or, in lieu thereof, file any response it may have to the petition. A hearing may be held at the Court's discretion. Following in camera inspection, should dissemination of confidential criminal justice information be allowed, the information shall be returned to the requested agency for dissemination. Dissemination shall be subject to copying costs paid in advance to the requested agency.

RULE 28

BANKRUPTCY

Should a party file for protection in Bankruptcy Court, that party shall immediately notify the court in writing of the filing and provide a copy of the bankruptcy cover sheet. Upon discharge of or confirmation of a bankruptcy reorganization plan superseding any claim made in this Court, notice thereof shall be filed and upon such filing, a party may request and obtain dismissal of the claim.

RULE 29

APPEALS FROM JUSTICE OR CITY COURT

- (a) **Scheduling.** When an appeal from Justice or City Court, being civil or criminal, has been filed and

the record received by the Clerk of Court, the Clerk shall send out by regular mail to parties a minute entry setting the matter for a scheduling appearance not less than ten (10) days from the date of the minute entry. This provision does not apply to appeals on the record from Small Claims Court.

- (b) **Failure to Appear.** In any appeal from Justice or City Court, if one of the parties does not appear for scheduling, the Court may dispose of the matter as the ends of justice dictate, including issuance of order dismissing the appeal.

RULE 30 REMOVAL TO SMALL CLAIMS COURT

All actions for recovery of money or specific personal property where the amount in controversy does not exceed Three Thousand Dollars (\$3000.00) shall be subject to removal to Small Claims Court pursuant to § 3-10-1004, Montana Code Annotated.

RULE 31 CLOSURE OF ESTATES

The Clerk of Court shall notify the Judge of all estate matters that remain pending two (2) years after appointment of the personal representative. The Court may thereupon order the personal representative and attorney to appear and show cause under § 72-3-1015, Montana Code Annotated why the estate has not been closed.

RULE 32 CONSERVATORSHIPS

- (a) **Insurance Settlement.** In the event of a settlement for a minor or disable person, the insurance company, through counsel, may not represent the plaintiff for conservatorship purposes.
- (b) **Annual Accounting.** Unless waived by Court Order or these local rules, all orders should contain provisions requiring conservators to provide an annual accounting. The accounting may be made informally by letter, together with a list showing the location of all accounts, proof of beginning balance, itemization of income and expenses, and proof of ending balance.
- (c) **Borrowing by Conservator.** All orders must provide that the conservator shall not borrow monies from the estate without prior Court approval.
- (d) **Bond or Certificate of Deposit.** A bond must be posted in all conservatorship actions unless good cause is shown for not requiring the same. Good cause for not requiring a bond exists if the total estate of the conservatorship is invested in a certificate of deposit in a local bank and fully insured by FDIC. In such event, the certificate of deposit must be in the name of the Clerk of Court as trustee for the minor or incapacitated person, interest must automatically accrue and be reinvested, the certificate cannot be cashed without prior court order, the bank must expressly consent to these limitations, and the certificate of deposit must be delivered to the Clerk of Court for safekeeping, to be delivered upon the conservatorship estate being terminated.

- (e) **Waiver of Annual Accounting.** In the event of a Certificate of Deposit as contained in the immediately preceding local rule, there is no annual accounting required.

RULE 33 LAW LIBRARY

A law library is maintained in each of the four (4) counties of the 14th Judicial District. The library will be open to the general public during the business day upon request made of the Clerk of Court. Only attorneys maintaining an office practice within the county where the library is located can remove books or materials from the library upon first informing the local Clerk of Court. All books or materials removed shall be promptly returned.

RULE 34 SIGNATURE STAMP

The Court Administrator shall maintain under lock and key a signature stamp bearing a facsimile of the Judge's signature. On occasions when the Judge is out of the jurisdiction or is otherwise unavailable, the Judge may authorize the Court Administrator to use the Judge's signature stamp on documents requiring immediate attention by the Court. It shall be necessary to secure the Judge's authorization on every occasion before his signature stamp is used, and the signature stamp shall only be used when it is not feasible to wait until the judge returns to the jurisdiction or otherwise becomes available to personally sign the document in question.

RULE 35 AMENDMENT-RELIEF

- (a) **Amendment.** Amendments to these rules may be made from time to time by Court Order filed with the Clerks of Court for each county within the 14th Judicial District.
- (b) **Relief.** If counsel believe in good faith they have a situation which is not covered adequately by these rules, or need relief from the application of these local rules, counsel may, upon application, present such matters to the court for its consideration.
- (c) **Applicability.** These rules, in addition to the Uniform District Court Rules, shall apply to all cases in each Court in each County in said District, and shall be entered upon the Minutes of this Court in each County of said District. The Clerks of Court shall keep an original copy of these Rules and any amendments thereto.
- (d)

RULE 36 DISMISSAL OF ACTIONS FOR LACHES

The Clerk of Court will bring to the attention of the Court on a quarterly basis those actions which the pleadings shown to have been at issue for more than three (3) years. Periodically, the Court will review the status of civil cases and request status reports. Parties are to comply with such request within twenty (20) days in writing. In the event parties do not comply, the Court may dismiss the matter or issue further appropriate

orders.

Pursuant to 3-1-112, Montana Code Annotated, the District Court of the Fourteenth Judicial District of the State of Montana, in and for the Counties of Musselshell, Golden Valley, Wheatland and Meagher hereby adopts the foregoing Rules of Court for the practice and proceedings of the Fourteenth Judicial District of the State of Montana, and that the same be entered upon the minutes of this Court in each County of this District, and that they be printed for distribution among the attorneys of this Court.

IT IS HEREBY ORDERED, that the foregoing Rules of Court take effect on May 15, 2003, and that thereupon any former rules of this Court are abrogated.

DATED this _____ day of _____, 2003.

RANDAL I. SPAULDING, DISTRICT JUDGE

**EXHIBIT “A”
FOURTEENTH JUDICIAL DISTRICT
COURTROOM DECORUM AND PRACTICE
GUIDELINES**

Preface

The pursuit of justice is a serious undertaking and conduct during the litigation process, both within and outside the courtroom, must at all times satisfy the appearance as well as the reality of fairness and equal treatment. Dignity, order and decorum are indispensable to the proper administration of justice.

A trial is an adversarial proceeding, and lawyers must advocate for their clients’ positions. However, conduct that may be characterized as discriminatory, abusive, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay and often to deny justice.

Attorneys are privileged to participate in the administration of justice in a unique way, and are responsible to their own consciences, to their clients, to one another, and to the public to conduct themselves in a manner which will facilitate, and never detract from, the administration of justice.

A trial is a truth-seeking process designed to resolve human and societal problems in a rational and efficient manner. A lawyer’s conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. A judge’s conduct should be characterized by courtesy, patience, and fairness toward all participants. The courts belong to the people of this state. These guidelines are intended to facilitate access to the courts for the fair resolution of disputes, and should never be applied to deny access.

Application

The purpose of these guidelines is to provide lawyers, judges, and parties with a reasonable standard of conduct in judicial proceedings. However, these guidelines are not intended to homogenize conduct or remove individuality from the courtroom. To facilitate professional growth and foster voluntary compliance with these guidelines, the Judge of the Fourteenth Judicial District will periodically review the guidelines. Comments will be considered by the Judge and incorporated as deemed necessary in the Judge’s sole discretion.

All participants in judicial proceedings should voluntarily adhere to these guidelines. The Judge or the Fourteenth Judicial District reserves the right to impose contempt of court or Rule 11 sanctions for violations of these guidelines. Nothing in these guidelines supersedes or detracts from existing codes or rules of conduct or discipline or alters existing standards by which lawyer misconduct may be determined.

COURTROOM DECORUM

I. General Courtroom Conduct

- A. Always be prompt.
- B. Stand when the judge enters or leaves the courtroom.

- C. Do not make personal attacks on opposing counsel. Argument or motions on issues not fully briefed or noticed for hearing as well as allegations of improper or unethical conduct by an attorney or party which are being raised for the first time during a trial or court hearing are generally considered efforts to disrupt or distract from the issues before the Court and will be cause for sanctions.
- D. Do not interrupt the Court or opposing counsel. Wait your turn.
- E. Enhancing courtroom decorum is a cooperative venture among bench and bar. It is appropriate to call to the attention of opposing counsel any perceived violations of these guidelines out of the presence of the jury.
- F. After the Court has ruled, ask the Court's permission before arguing further.
- G. Advise clients and witnesses of the formalities of the Court, the appropriate guidelines, and any rulings on motions in limine. Encourage their cooperation. This applies both to attorneys and to pro se parties.
- H. If there is a live microphone at counsel table, remember not to confer with others or rustle papers near the microphone.
- I. Counsel and the parties are expected to dress in a manner that reflects the seriousness of judicial proceedings and demonstrates an awareness of the Court as a respected institution of the American system of democracy. Coat and tie are suggested for male attorneys. Corresponding attire is appropriate for female attorneys.
- J. Treat everyone in the courtroom with fairness, consideration, and respect. Refrain from conduct that discriminates on the basis of race, color, national origin, religion, creed, sex, age, disability, sexual orientation, or marital status.

II. General Trial Conduct

- A. Offers of and requests for stipulations are appropriate to facilitate the presentation of a case, but should not be employed to communicate to the jury a party's willingness or unwillingness to stipulate.
- B. During trial, maintain appropriate respect for witnesses, jurors, and opposing counsel, avoiding informality. Address adults by their titles or surnames unless permission has been given to use first names. Avoid referring to adults by biased and demeaning expressions or labels such as "girl," "gal," or "boy." Address jurors individually or by surname only during voir dire.
- C. Treat jurors with respect and dignity, avoiding fawning, flattery, or pretended solicitude. Suggestions regarding the comfort or convenience of jurors should be made to the Court out of the jury's hearing.
- D. During the opening statement and arguments of opposing counsel, never inappropriately divert the attention of the Court or the jury.
- E. Avoid expressing an opinion to the jury about the testimony of a witness, a ruling of the Court, or arguments of counsel through exaggerated facial expressions or other contrived conduct.

- F. When practical, give the Court advance notice of any legal issue which is likely to be complex, difficult, and which you expect to require argument.
- G. Do not argue the case in the opening statement.
- H. Counsel should not express to the jury personal knowledge or personal opinions about the evidence.
- I. Address your remarks to the Court, not to opposing counsel except when extending necessary courtesies, e.g., thank you.
- J. Only attorneys, parties, court personnel, and witnesses, when called to stand, are permitted within the bar of the courtroom, unless otherwise allowed by the Court.

III. Examination of Witnesses

- A. When examining a witness, avoid undue repetition of the witness's answer.
- B. Make objections for evidentiary reasons without delivering a speech or guiding a witness. Recapitulate testimony only as needed to put an objection in context.
- C. If a witness was on the stand at a recess or adjournment, have the witness ready to proceed when court is resumed.
- D. Attempt to anticipate witness scheduling problems and discuss them with opposing counsel and the Court. Try to schedule witnesses in advance of trial.

IV. Exhibits and Documents

- A. Premark exhibits with the Clerk for identification prior to trial where appropriate. Hand all unmarked exhibits to the Clerk for marking before using them in trial.
- B. If practical, have photocopies of an exhibit for the Court, opposing counsel, and the witness. Avoid illegible copies if possible.
- C. Return all exhibits to the Clerk at each adjournment.
- D. Whenever referring to an exhibit, mention the exhibit number.
- E. After an exhibit has been admitted, mark on it only with the Court's permission. Avoid unnecessary markings. When referring to locations or features on exhibits such as maps or diagrams, indicate the locations by appropriate markings if they are not readily apparent from the documents.
- F. Give to the Clerk all papers intended for the Court.
- G. Show the proposed exhibit to opposing counsel prior to offering the exhibit into evidence.

V. Scheduling

- A. When practical, consult opposing counsel before asking for a hearing and scheduling a discovery appearance in an effort to avoid scheduling conflicts. Assert a scheduling conflict only if the requested time is not available, not to obtain unfair advantage.
- B. If opposing counsel fails to promptly accept or reject a time offered for hearing or discovery appearance, raises an unreasonable number of conflicts, or consistently fails to comply with this standard, agreement is not required.
- C. Where time associated with scheduling agreements could cause damage or harm to a client's case, then a lawyer is justified in asking for a hearing or scheduling a discovery appearance without first consulting with opposing counsel.
- D. Give notice of cancellation of appearances and hearings to all involved at the earliest possible time.

VI. Preferences of the Judge

- A. Stand when addressing the Court and when making objections.
- B. Stand during opening statements and closing argument.
- C. Approach the bench only with permission.
- D. Maintain an appropriate distance from the witness and the jury.
- E. Always address the judge as "Your Honor."

VII. Discovery

- A. Make reasonable efforts to conduct all discovery by agreement. Consider agreeing to an early voluntary exchange of information.
 - 1. Comply with all reasonable discovery requests in a timely manner.
 - 2. Stipulate to facts unless there is a genuine dispute.
- B. Conduct yourself in a professional manner and treat other lawyers, the opposing party, and all involved with courtesy and civility at all times. Clients should be counseled that civility and courtesy are required.
- C. Be punctual in fulfilling all professional commitments and in communicating with the Court, its staff, and other lawyers.
- D. Concentrate discovery responses on matters of substance and content, avoiding quarrels over form or style.
- E. Clearly identify for other counsel or parties all changes made in documents submitted for review.

- F. Fully respond to discovery, unless making a specific and clear objection warranted by existing law or a reasonable extension thereof. Do not produce documents in a manner designed to hide or obscure the existence of particular documents.

VIII. Depositions

- A. Advise clients regarding appropriate behavior, attire and other matters involved with depositions and other proceedings.
- B. Take depositions only when actually needed to ascertain facts or information or to perpetuate testimony.
- C. Make only good-faith objections to discovery, and avoid objections solely for the purpose of withholding or delaying the disclosure of relevant information.

IX. Court Staff

- A. Counsel are to fully cooperate with all court staff including, but not limited to, the Court Administrator, the Clerk of Court, the Court Reporter, appointed guardians, settlement masters, and special masters by promptly returning phone calls and keeping scheduled appointments.